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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/888,737	06/25/2001	Pamela A. Boss	82433	2913

7590 11/05/2004

COMMANDING OFFICER
OFFICE OF PATENT COUNSEL CODE D0012
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SAN DIEGO, CA 92152-5765

EXAMINER

NGUYEN, TU T

ART UNIT	PAPER NUMBER
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2877

DATE MAILED: 11/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/888,737	BOSS ET AL.	
	Examiner	Art Unit	
	Tu T. Nguyen	2877	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on ____.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 7 and 8 is/are allowed.
- 6) Claim(s) _____ is/are rejected.
- 7) Claim(s) 1-6 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 20 February 2004 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

DETAILED ACTION

This application is in condition for allowance except for the following formal matters:

Abstract

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The abstract in this application has more than 150 words.

Specification

The disclosure is objected to because of the following informalities:

- 1) Specification, page 1, line 6, the phrase "now U.S Patent No. 6,406,777" should be inserted after "June 2000".
- 2) Specification, page 1, line 9, the phrase "now U.S Patent No. 6,614,523" should be inserted after "March 2001".

Claim Objections

Claims 1-6 are objected to because of the following informalities:

1) Claim 1, line 13, "the spectral characteristics" should be changed to "spectral characteristics".

Claims 2-6 are objected as being depended on an objected claim.

Allowable Subject Matter

Claims 7-8 are allowed.

The following is a statement of reasons for the indication of allowable subject matter: Prior arts of record do not disclose a sensor for performing enhanced Raman spectroscopy. The sensor comprises: a surface enhanced Raman scattering structure that is mounted to a sensor body through which an optical excitation signal is directed for irradiating an analyte, whereupon said analyte generates primary Raman emissions in response to being irradiated by said optical excitation signal, and wherein said surface enhanced Raman scattering structure generates secondary Raman emissions when irradiated by said optical excitation signal; a processor for substantially filtering said secondary Raman emission from said primary Raman emissions and for generating an output signal representing said analyte which structurally arranged and functionally operated as claimed in claims 1,8.

Prior arts of record do not disclose a sensor for performing enhanced Raman spectroscopy. The sensor comprises: a surface enhanced Raman scattering structure that is mounted to a sensor body through which an optical excitation signal is directed for irradiating an analyte, whereupon said analyte generates primary Raman emissions in response to being irradiated by said optical excitation signal, and wherein said surface enhanced Raman scattering structure generates secondary Raman emissions when irradiated by said optical excitation signal; a processor for creating a sample file that represents said spectral characteristics of said primary and secondary Raman emissions, a reference file that represents said secondary Raman emissions, and a data file that represents the difference between said sample file and said reference file, and for generating an output signal that represents said analyte where said analyte has spectral characteristics represented by said data file which structurally arranged and functionally operated as claimed in claim 7.

Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tu T. Nguyen whose telephone number is (571) 272-2424. The examiner can normally be reached on T-F 7:30-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Toatley Jr. can be reached on (571) 272-2800 Ext. 77. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Tu T. Nguyen
Primary Examiner
Art Unit 2877

10/30/2004